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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT ANCHORAGE**

UNITED STATES OF AMERICA for the use of NORTH
STAR TERMINAL & STEVEDORE COMPANY, d/b/a
NORTHERN STEVEDORING & HANDLING, and NORTH
STAR TERMINAL & STEVEDORE COMPANY, d/b/a
NORTHERN STEVEDORING & HANDLING, on its own
behalf,

Plaintiffs,

and

UNITED STATES OF AMERICA for the use of SHORESIDE
PETROLEUM, INC., d/b/a MARATHON FUEL SERVICE,
and SHORESIDE PETROLEUM, INC., d/b/a
MARATHON FUEL SERVICE, on its own behalf,

Intervening Plaintiffs,

and

METCO, INC.,

Intervening Plaintiff,

vs.

NUGGET CONSTRUCTION, INC.; SPENCER ROCK
PRODUCTS, INC.; UNITED STATES FIDELITY AND
GUARANTY COMPANY; and ROBERT A. LAPORE,

Defendants.

No. A98-009 CIV (HRH)

**NOTICE BY DEFENDANT, UNITED STATES FIDELITY AND GUARANTY COMPANY
RE: EXPERT REPORT DEADLINE**

Defendant, United States Fidelity and Guaranty Company (USF&G), will timely
submit its Expert Report pursuant to Federal Rule of Civil Procedure 26(a)(2)(C), with the
same due March 16, 2006. It has scheduled the deposition of Shoreside's "expert", Mr.

BAROKAS MARTIN & TOMLINSON
1029 West Third, Suite 280
Anchorage, Alaska 99501
Phone: (907) 276-8010
Fax: (907) 276-5334

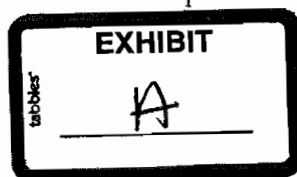


Exhibit A page 1 of 9

Herbert A Viergutz

From: "Herbert A Viergutz" <barmar@gci.net>
To: "Tom Krider" <Krider@OLES.com>
Sent: Thursday, February 16, 2006 12:18 PM
Subject: Re: Nugget

Thank you. It is the 27th. I will do a ReNotice.

----- Original Message -----

From: Tom Krider
To: Herbert Viergutz
Sent: Thursday, February 16, 2006 12:17 PM
Subject: Nugget

Herb,

Your Notice of Deposition for Gallow indicates that he will be deposed on Monday, March 17. However, March 17 is a Friday. Do you want him on that Friday, or on Monday, March 27? Your filing with the court indicated the 27th.

Thomas R. Krider
Oles Morrison Rinker & Baker LLP
701 Pike Street, Suite 1700
Seattle, WA 98101
Phone: (206) 623-3427
Direct fax: (206) 381-5248

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Exhibit A page 9 of 9
2/16/06

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT ANCHORAGE**

UNITED STATES OF AMERICA for the use of NORTH
STAR TERMINAL & STEVEDORE COMPANY, d/b/a
NORTHERN STEVEDORING & HANDLING, and NORTH
STAR TERMINAL & STEVEDORE COMPANY, d/b/a
NORTHERN STEVEDORING & HANDLING, on its own
behalf,

Plaintiffs,

and

UNITED STATES OF AMERICA for the use of SHORESIDE
PETROLEUM, INC., d/b/a MARATHON FUEL SERVICE,
and SHORESIDE PETROLEUM, INC., d/b/a
MARATHON FUEL SERVICE, on its own behalf,

Intervening Plaintiffs,

and

METCO, INC.,

Intervening Plaintiff,

vs.

NUGGET CONSTRUCTION, INC.; SPENCER ROCK
PRODUCTS, INC.; UNITED STATES FIDELITY AND
GUARANTY COMPANY; and ROBERT A. LAPORE,

Defendants.

No. A98-009 CIV (HRH)

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RENOTICE OF TAKING DEPOSITION

TO: William Grant Callow


PLEASE TAKE NOTICE that the Deposition of William Grant Callow previously
Noticed to occur on March 17, 2007, at 1:00 p.m. is hereby canceled and Renoticed to

BAROKAS MARTIN & TOMLINSON
1029 West Third, Suite 280
Anchorage, Alaska 99501
Phone: (907) 276-8010
Fax: (907) 276-5334

1 occur on Monday, March 27, 2006, at 1:00 p.m., at the offices of Barokas Martin &
2 Tomlinson, 1029 West Third, Suite 280, Anchorage, AK 99501, before a Court Reporter.

3 You are invited to attend and put forth such interrogatories as you may elect. The
4 oral examination shall continue from day to day until complete.

5 Dated this 16 day of February, 2006

6
7 
Herbert A. Viergutz, Alaska Bar No. 8506088

8
9 **CERTIFICATE OF SERVICE**

10 I HEREBY CERTIFY that a true
11 copy of the above was faxed on
the 16 day of February, 2006 to:

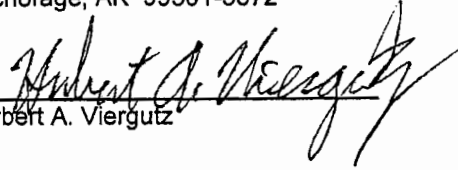
12 Michael W. Sewright, Esq.
13 Burr, Pease & Kurtz
810 N Street
Anchorage, AK 99501

14 Paul Stockler, Esq.
15 1309 West 16th Avenue
Anchorage, AK 99501

16 Traeger Machetanz, Esq
17 Oles Morrison Rinker & Baker, LLP
745 4th Avenue, Suite 502
18 Anchorage, AK 99501-2136

19 and mailed to:

20 Steven J. Shamburek, Esq.
21 Law Office of Steven J. Shamburek
425 G Street, Suite 630
Anchorage, AK 99501-5872

22
23 
24 Herbert A. Viergutz

25 BAROKAS MARTIN & TOMLINSON
1029 West Third, Suite 280
Anchorage, Alaska 99501
Phone: (907) 276-8010
26 Fax: (907) 276-5334

Herbert A Viergutz

From: "Herbert A Viergutz" <barmar@gci.net>
To: "Michael W. Sewright" <mws@bpk.com>
Sent: Wednesday, February 15, 2006 6:15 AM
Subject: Re: Untimely Reports

My expert report is not untimely pursuant to Rule 26(b)(2)(C).

----- Original Message -----

From: "Michael W. Sewright" <mws@bpk.com>
To: "Herbert Viergutz" <barmar@gci.net>
Cc: "Tom Krider" <Krider@OLES.com>; "Steve Shamburek" <shamburek@gci.net>;
"Pat Stoll" <cps@hvslaw.com>; "Paul Stockler" <paulstockler@aol.com>
Sent: Tuesday, February 14, 2006 4:18 PM
Subject: Untimely Reports

> Herb,

>

> In response to your telefaxed correspondence earlier this afternoon,

> I do not agree to an untimely expert report or notification of that

> intent for the first time this afternoon. - Mike

>

> --

>

> Michael W. Sewright

> Burr, Pease & Kurtz

> 810 N Street, Anchorage AK 99501

> (907) 276-6100

> <http://www.bpk.com>

>

> *****

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intended only for the use of the named addressee(s), and may contain
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please destroy it and notify us immediately at (800) 474-4275 or (907)
276-6100.

> *****

>

>

>

Herbert A Viergutz

From: "Herbert A Viergutz" <barmar@gci.net>
To: "Steven J. Shamburek" <shamburek@gci.net>
Sent: Wednesday, February 15, 2006 6:18 AM
Subject: Re: Untimely Reports

You do what you have to, but my expert report is timely pursuant to Rule 26(b)2(C), and will be forwarded on or before its due date of March 16. My expert will be available for deposition on March 28, and I intend to depose yours the afternoon of March 27.

----- Original Message -----

From: "Steven J. Shamburek" <shamburek@gci.net>
To: "Michael W. Sewright" <mws@bpk.com>; "Herbert Viergutz" <barmar@gci.net>; "Tom Krider" <Krider@OLES.com>
Cc: "Pat Stoll" <cps@hvslaw.com>; "Paul Stockler" <paulstockler@aol.com>
Sent: Tuesday, February 14, 2006 7:52 PM
Subject: RE: Untimely Reports

> Herb,
>
> Tuesday, February 14, 2006 is the date agreed to by the parties and
> ordered
> by the Court for the service of expert reports. Shoreside and Metco do
> not
> agree to any extension of this deadline. I hope this matter will not
> require court attention. If it does, we will move for attorney's fees.
>
> Steve
>
> -----Original Message-----
> **From:** Michael W. Sewright [mailto:mws@bpk.com]
> **Sent:** Tuesday, February 14, 2006 4:18 PM
> **To:** Herbert Viergutz
> **Cc:** Tom Krider; Steve Shamburek; Pat Stoll; Paul Stockler
> **Subject:** Untimely Reports
>

> Herb,
>
> In response to your telefaxed correspondence earlier this afternoon,
> I do not agree to an untimely expert report or notification of that
> intent for the first time this afternoon. - Mike
>
> --
>
> Michael W. Sewright
> Burr, Pease & Kurtz
> 810 N Street, Anchorage AK 99501
> (907) 276-6100
> <http://www.bpk.com>

Exhibit A ^{2/15/06} page 6 of 9

Herbert A Viergutz

From: "Steven J. Shamburek" <shamburek@gci.net>
To: ""Herbert A Viergutz"" <bamar@gci.net>
Cc: ""Michael W. Sewright"" <mws@bpk.com>
Sent: Wednesday, February 15, 2006 7:00 PM
Subject: RE: Late Expert Report

Herb,

You stated to me after a deposition in December that you were obtaining an expert regarding the bad faith claims against USF&G. There is one deadline for all expert reports established in the Court's order, namely February 14. That deadline gave the parties six weeks to undertake any necessary additional discovery. That deadline controls without the need for the Court to state expressly that the deadline trumps other default deadlines in the rules. No one asked for nor did the Court order a rebuttal deadline. The claimants retained an expert who provided an opinion in compliance with the deadline set forth in the Court's order. Because your current statement about contacting an expert may only be a bluff and until a report is proffered, a motion to strike is premature. If an untimely report is presented by an expert who was not properly disclosed, an appropriate motion will be filed when it is timely. The judge should recognize what is going on.

Steve

From: Herbert A Viergutz [mailto:bamar@gci.net]
Sent: Wednesday, February 15, 2006 12:59 PM
To: Steven J. Shamburek
Subject:

I obviously do not agree with your interpretation. The Court Order does not address rebuttal reports, so the 30 day provision applies. You can surely take it to the Court, but this one for you is a dead loser. You may not like that, but the Rule is clear, and so is the omission in the Order i.e. the Rule controls on a rebuttal report. You must really be afraid your "expert" analysis is wrong. My position will not change.

Exhibit A page 7 of 9
2/16/06

Herbert A Viergutz

From: "Herbert A Viergutz" <barmar@gci.net>
To: "Steven J. Shamburek" <shamburek@gci.net>
Cc: "Michael W. Sewright" <mws@bpk.com>
Sent: Thursday, February 16, 2006 8:16 AM
Subject: expert depositions

Enough e-mails on your position vs. mine. It is simply obvious to me that rather than litigate, you choose to engage in procedural rancor. I will keep March 28 open for the deposition of my expert. Talking about untimeliness, Mike said you were going to Notice the deposition of Mr. Terwilliger, but I still haven't seen that, although it was discussed a long time ago.

2/16/06

Exhibit A page 8 of 9

Herbert A Viergutz

From: "Herbert A Viergutz" <barmar@gci.net>
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Exhibit A page 9 of 9
2/16/06